

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

GEORGE CAVELLE,

Plaintiff,

v.

CHICAGO TRANSIT AUTHORITY and
DORVAL R. CARTER, JR.,

Defendants.

Case No.: 17-cv-5409

Hon. Robert M. Dow, Jr.
Magistrate Judge Gabriel A. Fuentes

**PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR PARTIAL JUDGMENT
ON THE PLEADINGS**

Plaintiff George Cavelle, through his undersigned counsel, for his response to Defendants' Motion for Partial Judgment on the Pleadings, states as follows:

Defendants seek judgment on the pleadings with respect to Mr. Cavelle's defamation *per quod*, defamation *per se*, and false light claims “[t]o the extent that” those claims rely on certain emails between Defendant CTA President Dorval Carter and former CTA President Frank Kruesi because, Defendants claim, they are barred by the statute of limitations. (Defs.' Mot. for Partial Judgment on the Pleadings at 3.) Defendants' motion should be denied because it misconstrues Mr. Cavelle's claims and, consequently, seeks relief that cannot be given effect.

Defendants misapprehend the relief sought in the First Amended Complaint. There is no genuine dispute that the four claims in Mr. Cavelle's original complaint were timely filed or that a false light count could be appropriately added in the First Amended Complaint. What is in dispute, however, is what Defendant Carter said to the King County Transit Authority in or around August 2016. As alleged in the original and amended complaints, the King County Transit Authority hired Mr. Cavelle and then, days later, after King County Transit Authority issued a

press release announcing Cavelle's hiring, Dorval Carter took it upon himself to contact representatives at King County, who then immediately after speaking with Carter, withdrew Cavelle's offer of employment.

In January 2018, in the course of fact discovery, Defendants produced the documents in question.¹ In those documents—emails from September 2015—Defendant Carter accused Mr. Cavelle of theft and drug use and gossiped with the CTA's former President Frank Kruesi about Mr. Cavelle's personal life and relationship with his wife.

On July 9, 2019, Mr. Cavelle amended his complaint to add a fifth count consisting of a false light claim. As part of the Amended Complaint, Mr. Cavelle also added factual allegations relating to the September 2015 emails between Defendant Carter and Kruesi. Although Defendant Carter's statements in the September 2015 emails are on their face, and at a minimum, defamatory *per se*, Mr. Cavelle did not bring separate defamation or false light claims based on them and is not seeking separate damages flowing from them.

Rather, the September 2015 emails provide relevant and important context relating to Defendant Carter's understanding of the circumstances surrounding Mr. Cavelle's departure from the CTA (which occurred just a few days before the Kruesi emails) and the manner in which Defendant Carter contemporaneously discussed those circumstances. The emails thus shed light both on Defendant Carter's knowledge, as well as the likely message he relayed to King County when he discussed Mr. Cavelle with the King County Transit Authority.

Since Mr. Cavelle bases no independent claim on the particular statements made by Defendant Carter in the September 2015 emails, Defendants' motion seeks relief that is

¹ The emails at issue were attached as Exhibit B to Mr. Cavelle's First Amended Complaint and for the Court's ease are attached hereto as Exhibit 1.

incongruous with the causes of action alleged in the Amended Complaint and should therefore be denied as moot.

Dated: July 2, 2020

Respectfully submitted,

By: s/ Robert D. Sweeney
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CERTIFICATE OF SERVICE

I, Robert D. Sweeney, certify that a copy of the foregoing was served on each of the following using the Court's ECF/CM system:

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s/ Robert D. Sweeney
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EXHIBIT 1

From: Carter, Dorval [/O=CTA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DCARTER]
Sent: 9/5/2015 6:42:33 PM
To: kruesi@aol.com
Subject: Re: Update

Buford was the FBI guy who was made VP over transit operations with no experience. We let him go on Thursday. Cavelle was the guy who went from a Maintenance manager to head of Ops in like 18 months. Came to find out after he left that his entire personal life is falling apart seriously heavy drinking, possible drug use and recently separated from his wife. His friends are about to do an intervention to try to get him help. In any event I'm glad we got him out of CTA. I am looking deeper into what he was up to during his time at CTA. He has paid us back the \$6100 apparently by borrowing money from his friends here at CTA. I am doing my due diligence on Robert and his time at MTA. Including talking to John Porcari who he worked for during his first stint at MTA. After talking with him this week I do believe he has toughened up since his previous stint here. We will see if anything comes up through the vetting. Things are starting to come together as I build a team that I can trust. Thanks again for the advice.

As an aside northerly island opened up this week. Lots of praise for RMD for shutting down Miegs and turning the airport into a park from both Rahm and Durbin! Unfortunately RMD was unable to attend the event.

Sent from my iPhone

On Sep 5, 2015, at 11:05 AM, "kruesi@aol.com" <kruesi@aol.com> wrote:

Dorval,
Is this Buford, the guy who came up from nowhere, or Cavelle, the supposed FBI guy?
What's your follow-up for this guy? If you know that he took \$6100, I'd bet two things: that's not all he took and you're not the only one who knows about it. Act accordingly.
I liked Robert, although I thought he was weak, i.e., he got run over by the Mooney crowd. If his experience has made him tougher, he'd be good for you. You definitely will want to find out the real story behind why he left Maryland.
It is good that you're getting folks you can rely on in the key positions; that will ensure that you're the guy actually running the place, and that people will know it. That makes things easier all around.
You definitely need to get some intellectual horsepower back in key spots, to reverse the dumbed-down management environment.
Best,
Frank

-----Original Message-----

From: Carter, Dorval <d2580carter@transitchicago.com>
To: Frank Kruesi <kruesi@aol.com>
Sent: Thu, Sep 3, 2015 7:20 am
Subject: Update

Frank,

FYI. Had the head of operations resign on Friday. Found out today that he stole \$6100 from the account that funds the holiday train! Definitely made the right move. Also moved the guy running Safety who had no transit background out of his position. Made Ron Ester acting and have interviewed the head of Safety at MARTA who used to work at CTA last week who is interested in comments by back and would be a good fit. I also interviewed Robert Smith for the head of

Ops position yesterday. He has left the position as head of Maryland MTA and is interested in working for me. He knows CTA (you may recall he was our VP of Bus Ops) and has developed significant experience in the industry since his time at CTA. He may be a good replacement . Things are starting to move.

Dorval

Sent from my iPhone